

Introduced by Senator Galgiani

February 3, 2015

An act to amend Section 25150.7 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 162, as introduced, Galgiani. Treated wood waste: disposal.

(1) Existing law requires, among other things, treated wood waste, as defined, to be disposed of in either a class I hazardous waste landfill, or in a composite-lined portion of a solid waste landfill unit that meets certain requirements. Existing law makes these, and other requirements regarding treated wood waste, inoperative on June 1, 2017. A violation of the state's hazardous waste control laws is a crime.

This bill would extend the operation of these provisions regarding treated wood waste indefinitely. By extending the operation of a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25150.7 of the Health and Safety Code
2 is amended to read:

1 25150.7. (a) The Legislature finds and declares that this section
2 is intended to address the unique circumstances associated with
3 the generation and management of treated wood waste. The
4 Legislature further declares that this section does not set a
5 precedent applicable to the management, including disposal, of
6 other hazardous wastes.

7 (b) For purposes of this section, the following definitions shall
8 apply:

9 (1) “Treated wood” means wood that has been treated with a
10 chemical preservative for purposes of protecting the wood against
11 attacks from insects, microorganisms, fungi, and other
12 environmental conditions that can lead to decay of the wood and
13 the chemical preservative is registered pursuant to the Federal
14 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
15 seq.).

16 (2) “Wood preserving industry” means business concerns, other
17 than retailers, that manufacture or sell treated wood products in
18 the state.

19 (c) This section applies only to treated wood waste that is a
20 hazardous waste, solely due to the presence of a preservative in
21 the wood, and to which both of the following requirements apply:

22 (1) The treated wood waste is not subject to regulation as a
23 hazardous waste under the federal act.

24 (2) Section 25143.1.5 does not apply to the treated wood waste.

25 (d) (1) Notwithstanding Sections 25189.5 and 25201, treated
26 wood waste shall be disposed of in either a class I hazardous waste
27 landfill, or in a composite-lined portion of a solid waste landfill
28 unit that meets all requirements applicable to disposal of municipal
29 solid waste in California after October 9, 1993, and that is regulated
30 by waste discharge requirements issued pursuant to Division 7
31 (commencing with Section 13000) of the Water Code for
32 discharges of designated waste, as defined in Section 13173 of the
33 Water Code, or treated wood waste.

34 (2) A solid waste landfill that accepts treated wood waste shall
35 comply with all of the following requirements:

36 (A) Manage the treated wood waste so as to prevent scavenging.

37 (B) Ensure that any management of the treated wood waste at
38 the solid waste landfill prior to disposal, or in lieu of disposal,
39 complies with the applicable requirements of this chapter, except

1 as otherwise provided by regulations adopted pursuant to
2 subdivision (f).

3 (C) If monitoring at the composite-lined portion of a landfill
4 unit at which treated wood waste has been disposed of indicates
5 a verified release, then treated wood waste shall no longer be
6 discharged to that landfill unit until corrective action results in
7 cessation of the release.

8 (e) (1) Each wholesaler and retailer of treated wood and treated
9 wood-like products in this state shall conspicuously post
10 information at or near the point of display or customer selection
11 of treated wood and treated wood-like products used for fencing,
12 decking, retaining walls, landscaping, outdoor structures, and
13 similar uses. The information shall be provided to wholesalers and
14 retailers by the wood preserving industry in 22-point font, or larger,
15 and contain the following message:

16
17 **Warning—Potential Danger**

18
19 These products are treated with wood preservatives registered
20 with the United States Environmental Protection Agency and the
21 California Department of Pesticide Regulation and should only be
22 used in compliance with the product labels.

23 This wood may contain chemicals classified by the State of
24 California as hazardous and should be handled and disposed of
25 with care. Check product label for specific preservative information
26 and Proposition 65 warnings concerning presence of chemicals
27 known to the State of California to cause cancer or birth defects.

28 Anyone working with treated wood, and anyone removing old
29 treated wood, needs to take precautions to minimize exposure to
30 themselves, children, pets, or wildlife, including:

31
32 Avoid contact with skin. Wear gloves and long sleeved shirts
33 when working with treated wood. Wash exposed areas thoroughly
34 with mild soap and water after working with treated wood.

35
36 Wear a dust mask when machining any wood to reduce the
37 inhalation of wood dusts. Avoid frequent or prolonged inhalation
38 of sawdust from treated wood. Machining operations should be
39 performed outdoors whenever possible to avoid indoor
40 accumulations of airborne sawdust.

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2 Wear appropriate eye protection to reduce the potential for eye
3 injury from wood particles and flying debris during machining.
4
5 If preservative or sawdust accumulates on clothes, launder
6 before reuse. Wash work clothes separately from other household
7 clothing.
8
9 Promptly clean up and remove all sawdust and scraps and
10 dispose of appropriately.
11
12 Do not use treated wood under circumstances where the
13 preservative may become a component of food or animal feed.
14
15 Only use treated wood that's visibly clean and free from surface
16 residue for patios, decks, or walkways.
17
18 Do not use treated wood where it may come in direct or indirect
19 contact with public drinking water, except for uses involving
20 incidental contact such as docks and bridges.
21
22 Do not use treated wood for mulch.
23
24 Do not burn treated wood. Preserved wood should not be burned
25 in open fires, stoves, or fireplaces.
26
27 For further information, go to the Internet Web site for the
28 Western Wood Preservers Institute (<http://www.wwpinstitute.org>)
29 or call the toll-free telephone number of the California Treated
30 Wood Information Hotline at 1-866-696-8315.
31
32 In addition to the above listed precautions, treated wood waste
33 shall be managed in compliance with applicable hazardous waste
34 control laws.
35 (2) On or before July 1, 2005, the wood preserving industry
36 shall, jointly and in consultation with the department, make
37 information available to generators of treated wood waste,
38 including fencing, decking and landscape contractors, solid waste
39 landfills, and transporters, that describes how to best handle,
40 dispose of, and otherwise manage treated wood waste, through the

1 use either of a toll-free telephone number, Internet Web site,
2 information labeled on the treated wood, information
3 accompanying the sale of the treated wood, or by mailing if the
4 department determines that mailing is feasible and other methods
5 of communication would not be as effective. A treated wood
6 manufacturer or supplier to a wholesaler or retailer shall also
7 provide the information with each shipment of treated wood
8 products to a wholesaler or retailer, and the wood preserving
9 industry shall provide it to fencing, decking, and landscaping
10 contractors, by mail, using the Contractors' State License Board's
11 available listings, and license application packages. The department
12 may provide guidance to the wood preserving industry, to the
13 extent resources permit.

14 (f) (1) On or before January 1, 2007, the department, in
15 consultation with the Department of Resources Recycling and
16 Recovery, the State Water Resources Control Board, and the Office
17 of Environmental Health Hazard Assessment, and after
18 consideration of any known health hazards associated with treated
19 wood waste, shall adopt and may subsequently revise as necessary,
20 regulations establishing management standards for treated wood
21 waste as an alternative to the requirements specified in this chapter
22 and the regulations adopted pursuant to this chapter.

23 (2) The regulations adopted pursuant to this subdivision shall,
24 at a minimum, ensure all of the following:

25 (A) Treated wood waste is properly stored, treated, transported,
26 tracked, disposed of, and otherwise managed so as to prevent, to
27 the extent practical, releases of hazardous constituents to the
28 environment, prevent scavenging, and prevent harmful exposure
29 of people, including workers and children, aquatic life, and animals
30 to hazardous chemical constituents of the treated wood waste.

31 (B) Treated wood waste is not reused, with or without treatment,
32 except for a purpose that is consistent with the approved use of
33 the preservative with which the wood has been treated. For
34 purposes of this subparagraph, "approved uses" means a use
35 approved at the time the treated wood waste is reused.

36 (C) Treated wood waste is managed in accordance with all
37 applicable laws.

38 (D) Any size reduction of treated wood waste is conducted in
39 a manner that prevents the uncontrolled release of hazardous

1 constituents to the environment, and that conforms to applicable
2 worker health and safety requirements.

3 (E) All sawdust and other particles generated during size
4 reduction are captured and managed as treated wood waste.

5 (F) All employees involved in the acceptance, storage, transport,
6 and other management of treated wood waste are trained in the
7 safe and legal management of treated wood waste, including, but
8 not limited to, procedures for identifying and segregating treated
9 wood waste.

10 (3) This subdivision does not authorize the department to adopt
11 a regulation that does one or more of the following:

12 (A) Imposes a requirement as an addition to, rather than as an
13 alternative to, one or more of the requirements of this chapter.

14 (B) Supersedes subdivision (d) concerning the disposal of treated
15 wood waste.

16 (C) Supersedes any other provision of this chapter that provides
17 a conditional or unconditional exclusion, exemption, or exception
18 to a requirement of this chapter or the regulations adopted pursuant
19 to this chapter, except the department may adopt a regulation
20 pursuant to this subdivision that provides an alternative condition
21 for a requirement specified in this chapter for an exclusion,
22 exemption, or exception and that allows an affected person to
23 choose between complying with the requirements specified in this
24 chapter or complying with the alternative conditions set forth in
25 the regulation.

26 (g) (1) A person managing treated wood waste who is subject
27 to a requirement of this chapter, including a regulation adopted
28 pursuant to this chapter, shall comply with either the alternative
29 standard specified in the regulations adopted pursuant to
30 subdivision (f) or with the requirements of this chapter.

31 (2) A person who is in compliance with the alternative standard
32 specified in the regulations adopted pursuant to subdivision (f) is
33 deemed to be in compliance with the requirement of this chapter
34 for which the regulation is identified as being an alternative, and
35 the department and any other entity authorized to enforce this
36 chapter shall consider that person to be in compliance with that
37 requirement of this chapter.

38 (h) On January 1, 2005, all variances granted by the department
39 before January 1, 2005, governing the management of treated wood
40 waste are inoperative and have no further effect.

1 (i) This section does not limit the authority or responsibility of
2 the department to adopt regulations under any other law.

3 ~~(j) This section shall become inoperative on June 1, 2017, and,
4 as of January 1, 2018, is repealed, unless a later enacted statute,
5 that becomes operative on or before January 1, 2018, deletes or
6 extends the dates on which it becomes inoperative and is repealed.~~

7 ~~(k) A regulation adopted pursuant to this section on or before
8 June 1, 2012, shall continue in force and effect after that date, until
9 repealed or revised by the department.~~

10 SEC. 2. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.